

Warner Norcross & Judd LLP
900 Fifth Third Center
111 Lyon Street, NW
Grand Rapids, MI 49503-2487
(616) 752-2185 phone
(616) 222-2185 fax
gtoering@wnj.com

Hearing date: November 30, 2006 at 10:00 a.m.

Gordon J. Toering (GT3738)
(Admitted *Pro Hac Vice*)

and

Duane Morris LLP
744 Broad Street, Suite 1200
Newark, NJ 07102-3889
(973) 424-2010

Walter J. Greenhalgh (WJG-9614)
Joseph H. Lemkin (JL-2490)

Attorneys for Robert Bosch GmbH

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

-----	-X	
	:	
In re	:	Chapter 11
	:	
DELPHI CORPORATION, <u>et al.</u> ,	:	Case No. 05-44481 (RDD)
	:	
	:	(Jointly Administered)
Debtors.	:	
-----	-X	

**RESPONSE OF ROBERT BOSCH GmbH TO DEBTORS'
SECOND OMNIBUS OBJECTION TO CLAIMS**

Robert Bosch GmbH ("Bosch") hereby responds to Debtors' Second Omnibus Objection to Claims dated October 31, 2006 filed by debtors Delphi Corporation, *et al* (collectively, "Debtors"). Bosch states as follows for its response:

1. Debtors filed their voluntary bankruptcy petitions on October 8, 2005 and October 14, 2005. Debtors continue to operate their business and manage their affairs as debtors in possession pursuant to Chapter 11 of the Bankruptcy Code.

2. On or about July 31, 2005, Bosch filed proofs of claim for patent infringement against Debtors for an amount in excess of \$15 million. Bosch's proofs of claim arose out of the sale of parts by a Debtor entity to its customers which contained Electronic Control Units infringing on patents held by Bosch.

3. As a precautionary measure, Bosch filed identical claims against the Debtor entities that filed for bankruptcy because Bosch could not precisely identify the Debtor entity(ies) that was involved in the infringement described in the proofs of claim.¹ Bosch, as set forth in the proofs of claim, is not asserting a right to receive multiple recoveries on its proofs of claim. Rather, Bosch's claim for patent infringement was filed against all of the Debtor entities that may have been involved in the infringement of Bosch's patents in order to preserve its rights until the correct Debtor entity(ies) can be determined.

4. On October 31, 2006, Debtors filed their Second Omnibus Objection to Claims (the "Objection") where Debtors seek to disallow and expunge certain claims of Bosch as duplicative. Through the Objection, Debtors assert that the claim against Delphi Automotive Systems LLC ("Delphi Automotive Systems") should be the surviving claim. However, Debtors expressly reserve their rights to further object to the claim against Delphi Automotive Systems at a later date.

¹ The particular claim numbers are: 13622; 13623; 13624; 13625; 13626; 13627; 13628; 13629; 13630; 13631; 13632; 13633; 13634; 13635; 13636; 13637; 13638; 13639; 13640; 13641; 13642; 13643; 13644; 13645; 13646; 13647; 13648; 13649; 14261; 14266; 16219; 16220; 16221; 16222; 16223; 16224; 16225; 16226; 16227; 16228; 16229; 16230; 16231; 16232; 16233; 16234; 16235; 16236; 16237; 16238; 16239; 16240; 16241; 16242; 16243; 16244; 16245; 16246.

5. Bosch acknowledges that its claims are duplicative, but at this point Bosch cannot determine whether Delphi Automotive Systems was the only Debtor entity that was involved in the infringement of Bosch's patents. That will not be known until Bosch has had an opportunity to pursue document and deposition testimony.

6. At this point, the Court should deny the Objection unless and until Debtors concede or stipulate in writing that all infringing that was done by a Debtor entity was done by Delphi Automotive Systems and that Debtors will not object to the surviving claim on the basis that Delphi Automotive Systems is not the correct Debtor entity.

7. The Debtors and Bosch have discussed this issue and Bosch is hopeful that a resolution can be reached.

8. The address to which Debtors must deliver any reply to this response is:

Gordon J. Toering
Warner Norcross & Judd LLP
900 Fifth Third Center
111 Lyon Street, NW
Grand Rapids, MI 49503-2487
Ph: (616) 752-2185
Fax: (616) 222-2185
gtoering@wnj.com

Joseph H. Lemkin
Duane Morris LLP
Business Address:
744 Broad Street, Suite 1200
Newark, NJ 07102-3889
(973) 424-2010

9. The person possessing authority to reconcile, settle, or ultimately resolve the claims on Bosch's behalf is Sarah L. Taylor, Authorized Agent, c/o Robert Bosch Corporation, 2800 South 25th Avenue, Broadview, Illinois 60155-4594; phone (708) 865-5444.

10. Bosch does not consent to jurisdiction or venue in this Court.

WHEREFORE, Bosch requests that the Court enter an order denying Debtors' Objection at least until Debtors' affirmatively state that all acts of infringement were done by Delphi Automotive Systems LLC and that Debtors will not object to Bosch's claim on the basis that Delphi Automotive Systems LLC is not the correct Debtor entity.

Dated: November 22, 2006

WARNER NORCROSS & JUDD LLP

By /s/ Gordon J. Toering
Gordon J. Toering (GT-3738)
(Admitted *Pro Hac Vice*)
Warner Norcross & Judd LLP
900 Fifth Third Center
111 Lyon Street, NW
Grand Rapids, MI 49503-2487
Ph: (616) 752-2185
Fax: (616) 222-2185
gtoering@wnj.com
Attorneys for Robert Bosch GmbH

and

DUANE MORRIS LLP
Walter J. Greenhalgh (WJG-9614)
Joseph H. Lemkin (JL-2490)
Business Address:
44 Broad Street, Suite 1200
Newark, NJ 07102-3889
(973) 424-2010

1342540